



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms
Washington, D. C. 20226

Number: 91-5

Date: 5/6/91

MULTISTATE APPELLATIONS OF ORIGIN FOR CONTIGUOUS STATES

To Proprietors of Bonded Wine Cellars, Taxpaid Wine Bottling Houses, and Others Concerned:

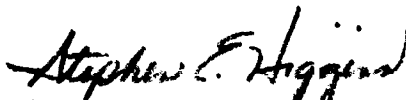
PURPOSE: The purpose of this circular is to advise industry members of a forthcoming ATF Ruling relating to the labeling of wine with multistate appellations of origin.

The Bureau of Alcohol, Tobacco and Firearms has been asked whether the States of Washington, Oregon, and California would qualify as three contiguous States, for purposes of approving a multistate appellation of origin under 27 C.F.R. § 4.25a(a)(1)(iii). The ruling holds that the term 'contiguous' in section 4.25a(a)(1)(iii) includes either two States which actually touch at a point along their common border, or three States which are connected throughout in an unbroken sequence. Thus, Washington, Oregon, and California are three contiguous States, which qualify as a multistate appellation of origin.

However, a multistate appellation of origin cannot be used if conflicting State requirements preclude conformance with the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation of origin. Finally, the ruling includes guidelines for accurately presenting the multistate appellation on labels.

The full text of the ATF Ruling follows for your information and reference.

INQUIRIES: Inquiries concerning this circular should refer to its number and be addressed to the Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue N.W., Washington, DC 20226. Attention: Wine and Beer Branch.


Stephen E. Higgins
Director

27 C.F.R. § 4.25a(a)(1)(iii): Multistate Appellations of Origin for Contiguous States

The requirement in 27 C.F.R. § 4.25a(a)(1)(iii) that a multistate appellation of origin consist of two or no more than three States which are all contiguous is satisfied where the appellation consists of two States which actually touch at a point along their common border, or three States which are connected throughout in an unbroken sequence.

ATF Rul. 91-1

The Bureau of Alcohol, Tobacco and Firearms has been asked whether the States of Washington, Oregon, and California would qualify as three contiguous States, for purposes of approving a multistate appellation of origin under 27 C.F.R. § 4.25a(a)(1)(iii).

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. § 205(e), authorizes the Bureau to issue regulations intended to prevent deception of the consumer, and to provide the consumer with adequate information as to the identity and quality of the product.

Regulations which implement the provisions of section 105(e), as they relate to the labeling and advertisement of wine, are set forth in 27 C.F.R. Part 4. Section 4.25a(a)(1)(ii) defines an American appellation of origin to include two or no more than three States which are all contiguous. Section 4.25a(d) outlines the conditions under which a multistate appellation of origin may be used on a wine label.

ATF recently received a request for approval of a multistate appellation of origin consisting of the States of Washington, Oregon, and California. The question presented was whether these three States were considered to be "contiguous" for the purpose of section 4.25a(a)(1)(iii). Specifically, the issue was whether the term "contiguous" required that each of the three States must touch each of the other two States, or whether the three States must merely form a continuous link of States constituting a single continuous geographic area. In this case, although Oregon borders on both California and Washington, the latter two States do not meet at any point.

The Bureau interprets the term "contiguous" in section 4.25a(a)(1)(iii) to include either two States which actually touch at a point along their common border, or three States which are connected throughout in an unbroken sequence. Thus, Washington, Oregon, and California are three contiguous States, which qualify as a multistate appellation of origin.

Section 4.25a(d) provides that an appellation of origin comprising two or no more than three States which are all contiguous may be used if:

- (1) All of the grapes were grown in the States indicated, and the percentage of the wine derived from grapes grown in each State is shown on the label, with a tolerance of plus or minus 2 percent; (2) it has been fully finished (except for cellar treatment pursuant to § 4.22(c), and blending which does not result in an alteration of class or type under § 4.22(b)) in one of the labeled appellation States; (3) it conforms to the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation.

The regulations clearly specify that a multistate appellation of origin can only be used if the wine conforms to the laws and regulations governing the composition, method of manufacture, and designation of wines in all of the States listed in the appellation. ATF is aware that different States may have different requirements governing the composition, method of manufacture, and designation of wines which are produced in that State. The Bureau wishes to clarify that a multistate appellation of origin cannot be used if conflicting State requirements preclude conformance with the laws and regulations of all the States listed in the appellation of origin.

Finally, section 4.25a(d) requires that any wine label which includes a multistate appellation of origin disclose the percentage of the wine derived from grapes grown in each State, with a tolerance of plus or minus 2 percent. The regulation does not specifically require that the States be listed in any particular order; nor does it specifically require that the percentages appear in direct conjunction with the appellation of origin. However, pursuant to 27 C.F.R. § 4.39(a), ATF will not approve any labels for wine containers which contain any statement that tends to create a misleading impression.

ATF believes that where a multistate appellation of origin appears on the brand label, with the percentage of the wine derived from grapes grown in each State shown on the back label, consumers will be misled if the States are not listed on the brand label in a descending order of predominance. For example, if the multistate appellation of origin consists of the States of Washington, Oregon, and California, with 75% of the wine derived from grapes grown in Washington, 15% of the wine derived from grapes grown in Oregon, and 10% of the wine derived from grapes grown in California, a brand label with the appellation "California-Oregon-Washington," would tend to mislead the consumer as to the origin of the wine.

Therefore, ATF has decided that where a multistate appellation of origin appears on the brand label, and the percentage of the wine derived from grapes grown in each State is listed on a label other than the brand label, the States in the multistate appellation of origin must be listed in a descending order of predominance, based on the percentage of the wine derived from grapes grown in each State. In situations where both the multistate appellation of origin and the listing of the percentage of the wine derived from grapes grown in each State appear on the brand label, ATF will carefully scrutinize the placement and size and type of the label statements, to ensure that the label does not tend to create a misleading impression as to the origin of the wine. Such determinations will be made on a case-by-case basis.

Held, the requirement in 27 C.F.R. § 4.25a(a)(1)(iii) that a multistate appellation of origin consist of two or no more than three States which are all contiguous is satisfied where the appellation consists of two States which actually touch at a point along their common border, or three States which are connected throughout in an unbroken sequence.

Held further, pursuant to 27 C.F.R. § 4.25a(d), a multistate appellation of origin cannot be used if conflicting State requirements preclude conformance with the laws and regulations governing the composition, method of manufacture, and designation of wines in all the States listed in the appellation of origin.

Held further, pursuant to 27 C.F.R. §§ 4.25a(d) and 4.39(a), where a multistate appellation of origin appears on the brand label, and the percentage of the wine derived from grapes grown in each State is listed on a label other than the brand label, the States in the multistate appellation of origin must be listed in a descending order of predominance, based on the percentage of the wine derived from grapes grown in each State. Where both the multistate appellation of origin and the listing of the percentage of the wine derived from grapes grown in each State appear on the brand label, ATF will carefully scrutinize the placement and size and type of the label statements, on a case-by-case basis, to ensure that the label does not tend to create a misleading impression as to the origin of the wine.